

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2530

**Introduced by Assembly ~~Member~~ Members Atkins, Mitchell, and
Skinner**

February 24, 2012

An act to amend Section 6030 of, *to add Section 3407 to, and to repeal Section 5007.7 of, the Penal Code, and to amend Sections 222 and 1774 of the Welfare and Institutions Code, relating to ~~correctional facilities inmates.~~*

LEGISLATIVE COUNSEL'S DIGEST

AB 2530, as amended, Atkins. ~~Correctional facilities: minimum standards. Inmates in labor.~~

(1) *Existing law requires that a female inmate have the right to summon and receive the services of a physician and surgeon of her choice in order to determine whether she is pregnant and, if determined to be pregnant, is entitled to receive needed medical services, as specified. Existing law requires the posting of these rights in a conspicuous place to which all female inmates have access. Additionally, existing law requires pregnant inmates who are transported to a hospital outside the prison for the purpose of childbirth to be transported in the least restrictive way possible and, upon arrival at the hospital, prohibits shackling by the wrists, ankles, or both, unless deemed necessary for safety, when the inmate is in active labor as determined by the attending physician.*

This bill would prohibit an inmate who is known to be pregnant or in recovery after delivery, from being restrained by the use of leg irons, waist chains, or handcuffs behind the body. The bill would prohibit, in

these circumstances, restraint by the wrists, ankles, or both, unless deemed necessary for the safety and security of the inmate, the staff, or the public. The bill would require the standards established by the Board of State and Community Corrections to require that pregnant inmates to be advised, orally or in writing, of standards and policies governing pregnant inmates.

(2) Existing law requires the Board of State and Community Corrections to establish minimum standards for local correctional facilities, which include standards governing pregnant inmates.

This bill would require the board, at the next biennial meeting after the enactment of this measure, to adopt standards regarding the restraint of pregnant women and to review local facilities' compliance.

(3) Existing law requires that a female ward of the juvenile court or a female who has been committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, who is pregnant, have the right to summon a physician and surgeon of her choice to determine if she is pregnant and to receive medically necessary care if she is found to be pregnant, as specified. Existing law prohibits a pregnant ward or pregnant juvenile inmate from being shackled by the wrists, ankles, or both, while in labor; requires pregnant inmates who are transported to a hospital outside the facility for the purpose of childbirth to be transported in the least restrictive way possible, and prohibits shackling by the wrists, ankles, or both, unless deemed necessary for safety, when the female is in active labor.

This bill would prohibit a ward who is known to be pregnant or in recovery after delivery from being restrained by the use of leg irons, waist chains, or handcuffs behind the body, including while being transported to a hospital outside the facility. The bill would prohibit, in these circumstances, restraint by the wrists, ankles, or both, unless deemed necessary for the safety and security of the inmate, the staff, or the public.

~~Existing law establishes the Board of State and Community Corrections. Under existing law, this entity is required to establish minimum standards for state and local correctional facilities. These standards include standards in the areas of health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of inmates, and personnel training.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 3407 is added to the Penal Code, to read:*

2 3407. (a) *An inmate known to be pregnant or in recovery after*
3 *delivery shall not be restrained by the use of leg irons, waist chains,*
4 *or handcuffs behind the body.*

5 (b) *A pregnant inmate, in labor, during delivery, or in recovery*
6 *after delivery, shall not be restrained by the wrists, ankles, or both,*
7 *unless deemed necessary for the safety and security of the inmate,*
8 *the staff, or the public.*

9 (c) *Restraints shall be removed when a professional who is*
10 *currently responsible for the medical care of a pregnant inmate*
11 *during a medical emergency, labor, delivery, or recovery after*
12 *delivery determines that the removal of restraints is medically*
13 *necessary.*

14 (d) *This section shall not be interpreted to require restraints in*
15 *a case where restraints are not required pursuant to a statute,*
16 *regulation, or correctional facility policy.*

17 (e) *Upon confirmation of an inmate's pregnancy, she shall be*
18 *advised, orally or in writing, of the standards and policies*
19 *governing pregnant inmates, including, but not limited to, the*
20 *provisions of this chapter, the relevant regulations, and the*
21 *correctional facility policies.*

22 *SEC. 2. Section 5007.7 of the Penal Code is repealed.*

23 ~~5007.7. Pregnant inmates temporarily taken to a hospital outside~~
24 ~~the prison for the purposes of childbirth shall be transported in the~~
25 ~~least restrictive way possible, consistent with the legitimate security~~
26 ~~needs of each inmate. Upon arrival at the hospital, once the inmate~~
27 ~~has been declared by the attending physician to be in active labor,~~
28 ~~the inmate shall not be shackled by the wrists, ankles, or both,~~
29 ~~unless deemed necessary for the safety and security of the inmate,~~
30 ~~the staff, and the public.~~

31 *SECTION 1.*

32 *SEC. 3. Section 6030 of the Penal Code, as amended by Section*
33 *34 of Chapter 36 of the Statutes of 2011, is amended to read:*

34 6030. (a) *The Board of State and Community Corrections shall*
35 *establish minimum standards for local correctional facilities. The*

1 standards for state correctional facilities shall be established by
2 January 1, 2007. The board shall review those standards biennially
3 and make any appropriate revisions.

4 (b) The standards shall include, but not be limited to, the
5 following areas: health and sanitary conditions, fire and life safety,
6 security, rehabilitation programs, recreation, treatment of persons
7 confined in state and local correctional facilities, and personnel
8 training.

9 (c) The standards shall require that at least one person on duty
10 at the facility is knowledgeable in the area of fire and life safety
11 procedures.

12 (d) The standards shall also include requirements relating to the
13 acquisition, storage, labeling, packaging, and dispensing of drugs.

14 (e) The standards shall require that inmates who are received
15 by the facility while they are pregnant ~~be provided~~ *notified, orally*
16 *or in writing, of and provided* all of the following:

17 (1) A balanced, nutritious diet approved by a doctor.

18 (2) Prenatal and postpartum information and health care,
19 including, but not limited to, access to necessary vitamins as
20 recommended by a doctor.

21 (3) Information pertaining to childbirth education and infant
22 care.

23 (4) A dental cleaning while in a state facility.

24 (f) The standards shall provide that ~~at no time shall a woman~~
25 ~~who is in labor be shackled by the wrists, ankles, or both including~~
26 ~~during transport to a hospital, during delivery, and while in~~
27 ~~recovery after giving birth, except as provided in Section 5007.7~~
28 *a woman known to be pregnant or in recovery after delivery shall*
29 *not be restrained, except as provided in Section 3407. The board*
30 *shall develop standards regarding the restraint of pregnant women*
31 *at the next biennial review of the standards after the enactment of*
32 *the act amending this subdivision and shall review the individual*
33 *facilities' compliance with the standards.*

34 (g) In establishing minimum standards, the ~~authority~~ board shall
35 seek the advice of the following:

36 (1) For health and sanitary conditions:

37 The State Department of Public Health, physicians, psychiatrists,
38 local public health officials, and other interested persons.

39 (2) For fire and life safety:

1 The State Fire Marshal, local fire officials, and other interested
2 persons.

3 (3) For security, rehabilitation programs, recreation, and
4 treatment of persons confined in correctional facilities:

5 The Department of Corrections and Rehabilitation, state and
6 local juvenile justice commissions, state and local correctional
7 officials, experts in criminology and penology, and other interested
8 persons.

9 (4) For personnel training:

10 The Commission on Peace Officer Standards and Training,
11 psychiatrists, experts in criminology and penology, the Department
12 of Corrections and Rehabilitation, state and local correctional
13 officials, and other interested persons.

14 (5) For female inmates and pregnant inmates in local adult and
15 juvenile facilities:

16 The California State Sheriffs' Association and Chief Probation
17 Officers' Association of California, and other interested persons.

18 *SEC. 4. Section 222 of the Welfare and Institutions Code is*
19 *amended to read:*

20 222. (a) ~~Any~~A female in the custody of a local juvenile facility
21 shall have the right to summon and receive the services of ~~any a~~
22 physician and surgeon of her choice in order to determine whether
23 she is pregnant. If she is found to be pregnant, she is entitled to a
24 determination of the extent of the medical services needed by her
25 and to the receipt of those services from the physician and surgeon
26 of her choice. ~~Any expenses~~ *Expenses* occasioned by the services
27 of a physician and surgeon whose services are not provided by the
28 facility shall be borne by the female.

29 (b) A ward *who is known to be pregnant or in recovery from*
30 *delivery* shall not be shackled by the wrists, ankles, or both during
31 labor, including during transport to a hospital, during delivery, and
32 while in recovery after giving birth, subject to the security needs
33 described in this section. ~~Pregnant wards temporarily taken to a~~
34 ~~hospital outside the facility for the purposes of childbirth shall be~~
35 ~~transported in the least restrictive way possible, consistent with~~
36 ~~the legitimate security needs of each ward. Upon arrival at the~~
37 ~~hospital, once the ward has been declared by the attending~~
38 ~~physician to be in active labor, the ward shall not be shackled by~~
39 ~~the wrists, ankles, or both, unless deemed necessary for the safety~~

1 ~~and security of the ward, the staff, and the public~~ *restrained except*
2 *as provided in Section 3407 of the Penal Code.*

3 (c) For purposes of this section, “local juvenile facility” means
4 ~~any~~ a city, county, or regional facility used for the confinement of
5 juveniles for more than 24 hours.

6 (d) The rights provided to females by this section shall be posted
7 in at least one conspicuous place to which all female wards have
8 access.

9 *SEC. 5. Section 1774 of the Welfare and Institutions Code is*
10 *amended to read:*

11 1774. (a) ~~Any~~ A female who has been committed to the
12 ~~authority~~ *Division of Juvenile Facilities* shall have the right to
13 summon and receive the services of ~~any~~ a physician and surgeon
14 of her choice in order to determine whether she is pregnant. The
15 director may adopt reasonable rules and regulations with regard
16 to the conduct of examinations to effectuate that determination.

17 (b) If she is found to be pregnant, she is entitled to a
18 determination of the extent of the medical services needed by her
19 and to the receipt of those services from the physician and surgeon
20 of her choice. ~~Any expenses~~ *Expenses* occasioned by the services
21 of a physician and surgeon whose services are not provided by the
22 facility shall be borne by the female.

23 (c) A ward who gives birth while under the jurisdiction of the
24 Department of Corrections and Rehabilitation, Division of Juvenile
25 Facilities, or a community treatment program has the right to the
26 following services:

27 (1) Prenatal care.

28 (2) Access to prenatal vitamins.

29 (3) Childbirth education.

30 (d) A ward ~~who is known to be pregnant or in recovery after~~
31 ~~delivery~~ shall not be shackled by the wrists, ankles, or both during
32 ~~labor, including during transport to a hospital, during delivery, and~~
33 ~~while in recovery after giving birth, subject to the security needs~~
34 ~~described in this section. Pregnant wards temporarily taken to a~~
35 ~~hospital outside the facility for the purposes of childbirth shall be~~
36 ~~transported in the least restrictive way possible, consistent with~~
37 ~~the legitimate security needs of each ward. Upon arrival at the~~
38 ~~hospital, once the ward has been declared by the attending~~
39 ~~physician to be in active labor, the ward shall not be shackled by~~
40 ~~the wrists, ankles, or both, unless deemed necessary for the safety~~

1 ~~and security of the ward, the staff, and the public~~ *restrained except*
2 *as provided by Section 3407 of the Penal Code.*

3 (e) ~~Any~~ A physician providing services pursuant to this section
4 shall possess a current, valid, and unrevoked certificate to engage
5 in the practice of medicine issued pursuant to Chapter 5
6 (commencing with Section 2000) of Division 2 of the Business
7 and Professions Code.

8 (f) The rights provided to females by this section shall be posted
9 in at least one conspicuous place to which all female wards have
10 access.